

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

December 16, 2009

MINUTES

DIVISION STAFF PRESENT:

Deanna D. Sabey, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education and Licensing Director
Traci Gundersen, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Tiffeni Wall, Real Estate Education Coordinator
Van Kagie, Investigator

COMMISSION MEMBERS PRESENT:

Gary R. Hancock, Chair
Kay R. Ashton, Vice Chair
H. Blaine Walker, Commissioner
Stefanie Tugaw-Madsen, Commissioner
H. Thayne Houston, Commissioner

GUESTS:

David Bornemeier	Chad Ahearn
Lance Miller	Paul Naylor
Kevin Swenson	Irene Kennedy
Max Thompson	Fred Repman

The December 16, 2009 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Hancock conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The Minutes from November 18, 2009, were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey said the Office of Legislative Council has the Division real estate statute and is in the process of organizing it to make it more user-friendly. There will be minimal changes in the text, but the statute will be reorganized and easier to use.

An FTC ruling came down in November, 2009, that deals with a Michigan MLS

company called Realty Comp 2. This service was providing real estate listings that were for full-service listings to different public websites, including their own. The services provided that were limited-services were listed in a more non-public way. The company was discriminating between the services they were giving out to the public for full-service, versus limited real estate services that were not being given to the public through a public domain website. The FTC said the company needed to provide both the limited-service and full-service listings to the public. The order was issued on November 2, 2009 and the company is appealing the order.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson reported in the month of November the Division received 28 complaints; screened 31 complaints; opened 12 cases; closed 20 cases; leaving the number of cases at 117. Based on what the Division has been seeing, Mr. Johnson believes the numbers will continue to climb.

There are five stipulations being presented to the Commission. The respondents were given the chance to appear to answer any questions the Commission might have, but all declined to attend. There are four stipulations from Enforcement, and one stipulation from Licensing/Education.

Review of Stipulations:

Kristen Nilssen
Richard L. Hancock
Tiffani Nageli
Jason Nageli
Constance Richan

The Commission took a brief moment to review the new stipulations they were just given, and to ask a few questions for clarification purposes.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the statistics show in the current number of active licensees versus the December 2008 figure, there is a 7% drop in active licensees. In inactive licensees compared to the same time frame, there was a 12% drop in licensees that have left the industry. The number of inactive licensees increased by 233 over last month's number.

On January 1, 2010 the continuing education hours will be increasing to 18 hours from the present 12 hours, and the core hours will increase from six to nine hours. If a licensee has an expiration date in January wanted to renew in December, they would only have to take the 12 hours, versus waiting until after January 1, 2010, when they would now be required to take the 18 hours of CE.

The 120-hour curriculum also increases on January 1, 2010. If a new applicant applies after January 1, 2010, they would now be required to take the increased hours, unless they have enrolled in 2009. If a student has enrolled before the end

of the year, they have until March 31, 2010 to apply with the 90 hours of education. Mr. Fagergren reminded those educators in attendance today, that if they are already approved to teach the 90-hour curriculum, they are also approved to teach the 120-hour curriculum. The exception is if the provider is teaching a distance education course. The Division would need to see the interaction built in on the 120-hour course to make sure the outline is being covered.

COMMISSION AND INDUSTRY ISSUES

Ms. Jonsson would like to discuss a renewal application with the Commission. This person has entered into a plea agreement, during the time of his renewal, for a felony. The Division rule states that a person can not renew if in the term of your licensure you have been convicted or entered into a plea agreement with regards to a felony. This person has been working to have the felony charge reduced to a Class A misdemeanor. The person's attorney has asked Ms. Jonsson to present this case to the Commission, because perhaps it is not completely fair to treat a conviction and a plea agreement as being equal, in terms of how the Division reviews these renewal applications.

The Division's recommendation to this person was take his case back to court and ask the Judge to reconsider the charge, and change it the lesser charge of a Class A misdemeanor. In this situation, the person would be able to ask for a hearing before the Commission to consider if he would still be able to renew his license. The Commission has decided the rule should remain as it currently is written. They have asked Ms. Jonsson to prepare a draft of several different options to the rule, and they will review it at the next meeting.

Ms. Jonsson reported the rule for requiring licensees to take unique education hours throughout a licensing renewal period, and not repeat a course and count as multiple times, has been made effective. Also, the rule to increase the amount of token gifts value has been increased to \$150.00, and it has been made effective as well. There will be an article in the upcoming newsletter covering all the new changes in rules, and the legislation that has changed in 2009. It will include links to statutes, rules, and websites.

Mr. Fagergren reported the reciprocity agreement with New York has been reviewed. They submitted their rules for us to review to see if they are similar enough to the Division's rules to allow reciprocity. Director Sabey is reviewing all the information, and will let the Commission know of her findings.

A Motion was made and accepted to close the meeting for licensing hearings.

LICENSE HEARINGS: CLOSED TO PUBLIC

1:35 John Jordan – Disciplinary Hearing
 Troy Reynolds – Witness for Mr. Jordan
 Dix Keller – Witness for Mr. Jordan

David Faragher - Witness for Mr. Jordan
Steven Winters – Witness for Mr. Jordan

Dave Mecham – Chief Investigator for Division
Van Kagie – Division Witness
Fred Repman – Division Witness

3:33 Charles Ekberg – Application for License

A brief recess was taken and accepted from 4:30 p.m. to 4:50 p.m. The Commission accepted a motion to continue this hearing at a later date.

A motion was made and accepted to go into Executive Session at 5:00 p.m. until 5:20 p.m.

RESULTS OF EXECUTIVE SESSION

Results on Stipulations:

Kristen Nilssen - Approved
Richard L. Hancock - Approved
Tiffani Nageli - Approved
Jason Nageli - Approved
Constance Richan - Approved

A Motion was made and accepted to adjourn the meeting at 5:20 p.m. The Motion was passed unanimously.